

WILMERHALE

March 23, 2018

Honorable Richard M. Berman
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007-1312

Re: *United States v. Usher et al.*, 17 Cr. 19 (RMB)

Dear Judge Berman:

Defense counsel thought it would be helpful to identify a few issues we would like to discuss at the conference scheduled for this Monday, March 26 at 9:00 a.m. As the Court knows, the primary purpose of the conference is to hear oral arguments on Defendants' motion to dismiss the indictment. *See* Dkt. Nos. 62-64 (motion), 72 (opposition), 73 (reply). Following those oral arguments, we request that the Court and the parties address three other discrete items.

First, we would like to address the parties' proposed pretrial schedule. On February 23, 2018, the parties submitted a joint, proposed pretrial schedule for almost all upcoming pre-trial deadlines. *See* Dkt. No. 86-1. The only item on which the parties were unable to reach an agreement is the deadline for the Government's pretrial disclosures of trading data relevant to the 75 "episodes" of alleged coordinated trading between the alleged co-conspirators. *See* Dkt. Nos. 86 (Defendants' letter), 87 (Government's letter). The Government has been reviewing this data since 2014 and previously represented that it was prepared to meet its original disclosure obligations, which required the disclosure of this material on March 1 and May 3. *See* Dkt. 59. Now, the Government wishes to delay its disclosures until July 6 and August 10. To resolve the issue, Defendants have requested that the disclosures occur no later than April 16 and June 18, which we believe is a fair compromise between the Government's original disclosure obligations and its current proposal.

Second, the parties intend to use written questionnaires with prospective jurors and would like to discuss the Court's usual practices for using such questionnaires. We would also like to discuss a specific deadline for the parties to submit a joint, proposed questionnaire so that we can add this item to the pretrial schedule.

Third, we would like to ask the Court for assistance in our clients' efforts to obtain visas to travel to the United States for purposes of trial preparation. Defendants would like to make two trips—one in late June and one in mid-August—that would not be tied to a specific court appearance. Such travel is expressly contemplated by Defendants' bail agreements. Nevertheless, we understand from the Government that the Department of Homeland Security might not grant visa applications for such travel. Accordingly, we respectfully request an order stating that our

WILMERHALE

Honorable Richard M. Berman, U.S.D.J.
March 23, 2018
Page 2

clients should be permitted to travel to the United States for purposes of trial preparation, even in the absence of a specific hearing date.

We will of course also be happy to discuss any other topics that the Court wishes to address at the conference on Monday.

Respectfully submitted,

/s/ Heather Tewksbury

Heather Tewksbury
Anjan Sahni
Counsel for Rohan Ramchandani
WilmerHale LLP
7 World Trade Center
New York, NY 10007

Michael Kendall
Mark Gidley
Andrew Tomback
Counsel for Richard Usher
White & Case LLP
75 State Street
Boston, MA 02109

David Schertler
Lisa Manning
Counsel for Christopher Ashton
Schertler & Onorato, LLP
1101 Pennsylvania Avenue, NW, Suite 1150
Washington, D.C. 20004

cc: Jeffrey Martino, Esq., Carrie Syme, Esq., and Stephen McCahey, Esq.
(Department of Justice, Antitrust Division)